

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MITCHELL PESTA and AIMEE
JEAN PESTA,

Plaintiffs,

v.

QUICKEN LOANS, INC., et al.,

Defendants.

No. CV-13-023-LRS

**ORDER GRANTING
MOTION TO DISMISS**

On January 23, 2013, the “Bank Defendants” (Bank of America, N.A., for itself and as successor by merger to Countrywide Bank, FSB and BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing; Federal National Mortgage Association; and Mortgage Electronic Registration Systems, Inc.) filed a Fed. R. Civ. P. 12(b)(6) Motion To Dismiss (ECF No. 10). The motion was noted for hearing without oral argument on March 14, 2013.

Plaintiffs have not filed a response to the motion. A response was due no later than February 13, 2013. LR 7.1(c) (21 calendar days for a response computed from January 24, 2013). A failure to timely file a memorandum of points and authorities in opposition to any motion may be considered by the court as consent

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1 on the part of the party failing to file such memorandum to the entry of an order
2 adverse to the party in default. LR 7.1(e).

3 Based on LR 7.1(e) and good cause appearing from the “Bank Defendants”
4 memorandum in support of their Motion To Dismiss (ECF No. 13) and supporting
5 declaration of counsel (ECF No. 12), the “Bank Defendants” Motion To Dismiss
6 (ECF No. 10) is **GRANTED**. Plaintiffs fail to state any claim upon which relief
7 can be granted. Although Defendant Quicken Loans, Inc., is not a party to the
8 motion to dismiss, the same claims are alleged against it by Plaintiffs in their
9 Complaint. There is no apparent reason why relief could be granted upon the
10 claims as against Quicken Loans when no relief can be granted upon them as
11 against the “Bank Defendants.” Accordingly, Quicken Loans is also dismissed as a
12 Defendant and Plaintiffs’ Complaint is **DISMISSED with prejudice** in its
13 entirety.

14 **IT IS SO ORDERED.** The District Executive is directed to enter judgment
15 accordingly and forward copies of the judgment and this order to counsel of
16 record. This file shall be closed.

17 **DATED** this 19th of April, 2013.

18 *s/Lonny R. Suko*

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20 LONNY R. SUKO
21 United States District Judge
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